

***United States Court of Appeals
for the Second Circuit***



EXHIBITS

Docket No. **75-4138**

IN THE
United States Court of Appeals
For the Second Circuit

GERALD F. PADUANO and CAROLINE PADUANO,
ROCCO M. CAPPUCILLI and DOROTHY CAPPUCILLI,
PETER L. CAPPUCILLI and GRACE A. CAPPUCILLI,
Petitioners-Appellants,

—vs.—

COMMISSIONER OF INTERNAL REVENUE,
Respondent-Appellee.

On Appeal from the United States Tax Court

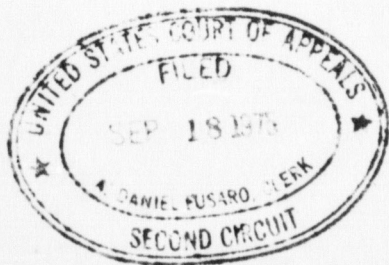
EXHIBITS

VICTOR CHINI, ESQ.
Attorney for Petitioners-Appellants
Office and Post Office Address
811 State Tower Building
Syracuse, New York 13202

Daily Record Corporation
Rochester, New York

(7546)

Spaulding Law Printing
Syracuse, New York



INDEX TO JOINT EXHIBITS:

	Page
Joint Exhibit 10-J — Form 1065, Partnership Return 1961	1
Joint Exhibit 11-K — Form 1065, Partnership Return 1962	7
Joint Exhibit 39-AM — Purchases and Sales of Farms to Stonehedge	14
Exhibit 45 — Mortgage Settlement Statement	15
Exhibit 46 — Deed	16
Exhibit 47 — Certified Copy of Resolution and Consent. . .	18
Exhibit 48 — Closing Statement	23
Exhibit 49 — Bond and Mortgage	24
Exhibit 51 — Deed	32
Exhibit AR — Letter, dated 8-11-71	39
Exhibit AT — Letter, dated 7-21-71	44

**JOINT EXHIBIT 10-J - Form 1065, Partnership
Return 1961.**

FORM 1065

U.S. Treasury Department
Internal Revenue Service

J.S. PARTNERSHIP RETURN OF INCOME

(To be filed also by syndicates, pools, joint ventures, etc.)

FOR CALENDAR YEAR 1961

1961

A. Date business commenced

1/1/54

B. County in which located

Crawdaga

**C. Principal business activity
(See General Inst. K)**

Realty

**D. Employer identification
number**

15-0622012

or other taxable

year beginning....., 1961, and ending....., 19.....

(PLEASE TYPE OR PRINT PLAINLY)

Name

Compuce1111, Compuce1111, Paduano

Number and street

843 Hiawatha Blvd. West

City, town, postal zone number, State

Syracuse 3, New York

Line and
instruction no.

INCOME

1. Gross receipts or gross sales..... Less: Returns and allowances.....	10,960.93	
2. Less: Cost of goods sold (Schedule A).....	7,633.87	
3. Gross profit (line 1 less line 2).....	3,327.06	
4. Income (or loss) from other partnerships, syndicates, etc. (attach statement).....		
5. Nonqualifying dividends (see Instruction 5).....		
6. Interest (fully taxable).....		
7. Rents (Schedule B).....	21,810.00	
8. Royalties (attach schedule).....		
9. Net farm profit (or loss) (Schedule F, Form 1040).....		
10. Net gain (or loss) from sale or exchange of property other than capital assets (from line 13, Separate Schedule D, Form 1065).....	41,297.00	
11. Other income (attach schedule).....		66,542.06
12. Total income (lines 3 through 11).....		
DEDUCTIONS		
13. Salaries and wages (other than to partners).....	4,531.57	
14. Payments to partners—salaries and interest.....		
15. Rent.....	669.00	
16. Interest (explain in Schedule C).....	9,649.12	
17. Taxes (explain in Schedule C).....	4,619.01	
18. Losses by fire, storm, shipwreck, or other casualty or theft (attach statement).....		
19. Bad debts (Schedule H).....		
20. Repairs.....	1,515.25	
21. Depreciation (Schedule I).....	4,833.21	
22. Amortization (attach schedule).....		
23. Depletion of mines, oil and gas wells, timber, etc. (attach schedule).....		
24. Other deductions authorized by law (explain in Schedule I).....	6,891.95	
25. Total deductions (lines 13 through 24).....		32,003.15
26. Ordinary income (or loss) (line 12 less line 25).....		33,988.91

ADDITIONAL INFORMATION

- E. Is any member of the partnership related by blood or marriage to any other member? ☒ Yes ☐ No
- F. Is any member of the partnership a trust for the benefit of any person related by blood or marriage to any other member? ☐ Yes ☒ No
- G. Did the partnership, during the taxable year, have any contracts or subcontracts subject to the Renegotiation Act of 1951? ☐ Yes ☒ No
- If "Yes," see General Instruction R and enter appropriate amount here \$.....
- H. Did you claim a deduction for expenses connected with (If answer to any question is "YES," check applicable boxes within that question.)
- | | | | |
|---|---|--|---|
| 1. A hunting lodge <input type="checkbox"/> , working ranch or farm <input type="checkbox"/> , fishing camp <input type="checkbox"/> , resort property <input type="checkbox"/> , pleasure boat or yacht <input type="checkbox"/> or other similar facility <input type="checkbox"/> ? (Other than where the operation of the facility was the partnership's principal business.) | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | 3. The leasing, renting, or ownership of a hotel room or suite <input type="checkbox"/> , apartment <input type="checkbox"/> , or other dwelling <input type="checkbox"/> , which was used by partners, customers, employees, or members of their families? (Other than use by partners or employees while in business travel status.) | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |
| 2. Vacations for partners or members of their families or employees or members of their families? (Other than vacation pay reported on Form W-2.) | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO | 4. The attendance of members of partners' families or your employees' families at conventions or business meetings? | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |

I declare under penalties of perjury that I have examined this return (including accompanying schedules and statements) and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Sign here.....
(Signature of partner or member)

Sign here.....
(Signature of preparer other than partner or member)

HARRY PALERMO
JULY ACCOUNTANT

843 HIAWATHA BLVD. W. SYRACUSE, N. Y.

3/30/62

(Date)
3/30/62
(Date)

**JOINT EXHIBIT 10-J—Form 1065, Partnership
Return 1961.**

Form 1065—1961

Page 2

Schedule A.—COST OF GOODS SOLD		
1. Opening inventory *		1. Method of inventory valuation—Cost <input type="checkbox"/> ; lower of cost or market <input type="checkbox"/> ; LIFO <input type="checkbox"/> ; other <input type="checkbox"/> . If other, attach explanation. 2. Was the method of inventory valuation indicated above the same method used for 1960? <input type="checkbox"/> Yes <input type="checkbox"/> No. If "No" attach explanation. 3. If inventory is valued at lower of cost or market, enter total cost \$ _____ and total market valuation \$ _____ of those items valued at market. 4. If closing inventory was taken by physical count, enter date inventory was taken _____. If not at end of year, attach an explanation of how the end of the year count was determined. 5. If closing inventory was not taken by a physical count, attach an explanation of how inventory items were counted or measured.
2. Purchases		
Less: Cost of items withdrawn for personal use		
3. Cost of labor, supplies, etc.		
4. Total of lines 1, 2, and 3		
5. Less: Closing inventory		
6. Cost of goods sold. Enter here and on line 2, page 1	7,633.07	

* If different from last year's closing inventory, attach explanation.

Note: Any items specially allocated to the partners should be included in the appropriate column of Schedule K, instead of the lines indicated by Schedules B through J. (See General Instruction Q)

Schedule B.—INCOME FROM RENTS

1. Kind and location of property	2. Amount of rent	3. Depreciation (explain in Schedule I)	4. Repairs (explain in Schedule B-1)	5. Other expenses (explain in Sched. B-1)
Potomack Farm	350.00			
863 Hiawatha Blvd.	9,930.00			
845 Hiawatha Blvd.	11,260.00			
1. Totals	21,810.00			21,810.00
2. Net Income (or loss) (column 2 less sum of columns 3, 4, and 5). (Enter on line 7, page 1)				

Schedule B-1.—EXPLANATION OF COLUMNS 4 AND 5 OF SCHEDULE B

Column	Explanation	Amount	Column	Explanation	Amount

Schedule C.—EXPLANATION OF INTEREST AND TAXES (Lines 16 and 17, Page 1)

Explanation	Amount	Explanation	Amount
1st Trust & Deposit - Mortgage	2,849.12		
Real Estate Taxes	4,456.05		
Payroll Taxes	107.16		
Total	7,412.33		

Schedule D.—ATTACH SCHEDULE D (Form 1065) TO REPORT SALES OR EXCHANGES OF PROPERTY

Schedule H.—BAD DEBTS. (See Instruction 19)

1. Taxable year	2. Net profit from business	3. Sales on account	4. Bad debts of organization if no reserve is carried on books	If organization carried a reserve	
				5. Gross amount added to reserve	6. Amount charged against reserve
1958...					
1959...					
1960...					
1961...					

NOTE.—Securities which are capital assets and which become worthless within the taxable year should be reported in separate Schedule D, Form 1065.

JOINT EXHIBIT 10-J—Form 1065, Partnership
Return 1961.

Form 1065—1961

Schedule I.—DEPRECIATION. (See Instructions 21)

Page 3

1. Kind of property (if buildings, state material of which constructed). Exclude land and other nondepreciable property	2. Date acquired	3. Cost or other basis (exclude land)	4. Depreciation allowed (or allowable) in prior years	5. Method of computing depreciation	6. Rate (%) or life (years)	7. Depreciation for this year
See Attached Schedule						
1. Total						4,000.21
2. Less: (a) Amount of depreciation claimed in Schedules A and B and elsewhere on return						0.00
(b) Amount of additional first-year depreciation included above. Enter in col. 5, Sch. K						0.00
3. Balance—Enter here and on line 21, page 1						4,000.21

Schedule J.—OTHER DEDUCTIONS. (See Instruction 24)

Explanation	Amount	Explanation	Amount
See Attached Schedule			
Total (enter here and on line 24, page 1)		6,001.96	

Schedule K.—PARTNERS' SHARES OF INCOME, CREDITS, AND DEDUCTIONS

1. State name and address of each partner. (Designate nonresident aliens, if any.) Where return of partner or member is filed in another internal revenue district, specify district	2. Social Security number	3. Percentage of time devoted to business	4. Ordinary income (or loss) (line 26, page 1)	5. Additional first-year depreciation
(a) Peter L. Cappuccilli 105 Norma Drive, Syracuse 4, New York	104-12-2226	Part	11,312.97	
(b) Rocco M. Cappuccilli 120 Norma Drive, Syracuse 4, New York	193-20-1345	Part	11,312.97	
(c) Gerald F. Paduano 201 Marion Drive, Syracuse 4, New York	260-12-2730	Part	11,312.97	
(d)				
(e)				
Totals			33,938.91	

Continuation of Schedule K

6. Payments to partners—salaries and interest (line 14, page 1)	7. Qualifying dividends (attach itemized list)	8. Net short-term gain (or loss) from sale or exchange of capital assets (from line 3, Schedule D)	9. Net long-term gain (or loss) from sale or exchange of capital assets (from line 7, Schedule D)	10. Net gain (or loss) under section 1231 (from line 10, Schedule D)	11. Net earnings from self-employment (from line 10, Schedule N)	12. Expense account allowance (see instructions)
(a)						
(b)						
(c)						
(d)						
(e)						
Totals						

NOTE.—See the instructions for other items required to be reported separately.

**JOINT EXHIBIT 10-J—Form 1065, Partnership
Return 1961.**

Form 1065—1961

Schedule L—BALANCE SHEETS

Page 4

ASSETS	Beginning of taxable year		End of taxable year	
	Amount	Total	Amount	Total
1. Cash		6,247.04		4,957.36
2. Notes and accounts receivable				
Less: Reserve for bad debts		66,025.03		233,010.23
3. Inventories:				
(a) Other than last-in, first-out				
(b) Last-in, first-out				
4. Investments in Government obligations				
5. Other current assets—including short-term marketable investments (attach schedule)				
6. Other investments (attach schedule)				
7. Buildings and other fixed depreciable assets	333,119.10		117,161.74	
Less: Accumulated amortization and depreciation	32,027.50	273,291.60	32,624.13	64,707.61
8. Depletable assets				
Less: Accumulated depletion				
9. Land (net of any amortization)		150,172.60		223,272.03
10. Intangible assets (amortizable only)				
Less: Accumulated amortization				
11. Other assets (attach schedule)				
12. Total assets		510,736.32		592,554.17
LIABILITIES AND CAPITAL				
13. Accounts payable				6,203.16
14. Mortgages, notes, and loans payable (short term):				
(a) Banks	10,000.00		7,000.00	
(b) Others	49,160.00	59,160.00	14,550.00	21,550.00
15. Other current liabilities (attach schedule) Taxes Payable				993.34
16. Mortgages, notes, and loans payable (long term):				
(a) Banks	210,211.13		61,520.00	
(b) Others	104,710.00	323,021.13	203,320.00	244,910.00
17. Other liabilities (attach schedule)				
18. Partners' capital accounts		133,655.19		326,127.67
19. Total liabilities and capital		510,736.32		592,554.17

Schedule M.—RECONCILIATION OF PARTNERS' CAPITAL ACCOUNTS

	1. Capital account at beginning of year	2. Capital contributed during year	3. Income not included in column 4 plus nontaxable income	4. Ordinary income (or loss) from line 26, page 1	5. Losses not included in column 4, plus unallowable deductions	6. Withdrawals and distributions	7. Capital account at end of year
(a) ...	39,979.12	0,702.16	46,247.41	11,312.97		2,021.40	104,400.26
(b) ...	43,933.10	0,702.17	46,247.31	11,312.97		4,072.47	100,860.10
(c) ...	49,063.97	0,702.17	46,247.40	11,312.97		2,701.20	110,467.23
(d) ...							
(e) ...							
Totals	133,055.19	20,706.50	139,042.23	33,938.91		0,795.15	326,127.67

Schedule N.—COMPUTATION OF NET EARNINGS FROM SELF-EMPLOYMENT. (See instruction for Schedule N)

1. Ordinary income increased by casualty losses (line 26 plus line 18, page 1). Do not include income received for the performance of services as a doctor of medicine		55,553.91
2. Add: Payments to partners—salaries and interest (line 14, page 1)		
3. Net loss from sale or exchange of property other than capital assets (line 10, page 1)		
4. Total		55,553.91
5. Less: Portion of line 4, page 1, which does not constitute net earnings from self-employment		
6. Nonqualifying dividends (from line 5, page 1)		
7. Interest (see instructions)		
8. Net rentals from real estate		
9. Net gain from sale or exchange of property other than capital assets (line 10, page 1)	21,010.00	
10. Net earnings from self-employment. (Enter in column 11, Schedule K)	41,597.03	63,207.00

CAPPUCCILLI, CAPPUCCILLI, PADUANO
SCHEDULE OF CONTRACT SALE OF PROPERTY 1961

	LEADER FARM	PRESTON FARM	CHRISTOPHER FARM	HENDERSON FARM
T				
S DEPRECIATION	\$ 6,433.37	\$ 12,000.00	\$ 23,000.00	\$ 125,460.00
IS	397.29	-0-	-0-	-0-
	<u>6,036.08</u>	<u>12,000.00</u>	<u>23,000.00</u>	<u>125,460.00</u>
E ON CONTRACT BASIS	50,000.00	40,000.00	46,000.00	216,500.00
IS	6,036.08	12,000.00	23,000.00	125,460.00
N	<u>43,963.92</u>	<u>28,000.00</u>	<u>23,000.00</u>	<u>91,040.00</u>
	43,963.92	28,000.00	23,000.00	91,040.00
TRACT PRICE	50,000.00	40,000.00	25,500.00	114,390.00
CENTAGE	<u>88%</u>	<u>70%</u>	<u>90%</u>	<u>80%</u>
ceived-1958	6,000.00			
lared-1958	5,280.00			
ceived-1959	22,000.00			
lared-1959	19,360.00			
ceived-1960	-0-			
ceived-1961	12,000.00	5,000.00	5,500.00	33,390.00
lared-1961	<u>10,560.00</u>	<u>3,500.00</u>	<u>4,950.00</u>	<u>26,712.00</u>

JOINT EXHIBIT 10-J -- Form 1065, Partnership
Return 1961.

TAXPAYER Cappuccilli, Cappuccilli, Paduano

ADDRESS 643 Minnatha Blvd. West, Syracuse 3, New York

EXPLANATION OF OTHER DEDUCTIONS[illegible]

**JOINT EXHIBIT 11-K - Form 1065, Partnership
Return 1962.**

FORM 1065
U.S. Treasury Department
Internal Revenue Service

U.S. PARTNERSHIP RETURN OF INCOME

(To be filed also by syndicates, pools, joint ventures, etc.)
FOR CALENDAR YEAR 1962

1962

A. Date business commenced 1/	or other taxable year beginning 1962 , and ending 1962 , 19..... (PLEASE TYPE OR PRINT PLAINLY)	K. Employer identification number 15-0622012
B. County in which located Onondaga	Name Carpuccelli, Carpuccelli & Paduano	
C. Principal business activity Realty (General Inst. K)	Number and street 843 Hiawatha Blvd West	
D. Principal product or service Rental & Sales	City, town, postal zone number, State Syracuse 3, New York	

IMPORTANT—All applicable lines and schedules must be filled in. If the lines on the schedules are not sufficient, see Instruction R.

Line and instruction No.	INCOME	
1. Gross receipts or gross sales	Less: Returns and allowances	19,973.72
2. Less: Cost of goods sold (Schedule A) and/or operations (attach schedule)		8,634.80
3. Gross profit (line 1 less line 2)		11,338.92
4. Income (or loss) from other partnerships, syndicates, etc. (attach statement)		
5. Nonqualifying dividends (attach itemized list—see Instruction 5)		
6. Interest (fully taxable)		10,174.95
7. Rents (Schedule B)		10,310.00
8. Royalties (attach schedule)		
9. Net farm profit (or loss) (Schedule F, Form 1040)		
10. Net gain (or loss) from sale or exchange of property other than capital assets (from line 13, Separate Schedule D, Form 1065)		14,690.51
11. Other income (attach schedule)		
12. Total income (lines 3 through 11)		46,514.38
DEDUCTIONS		
13. Salaries and wages (other than to partners)		5,322.69
14. Payments to partners—salaries and interest		
15. Rent		600.00
16. Interest (explain in Schedule C)		3,912.10
17. Taxes (explain in Schedule C)		4,683.95
18. Losses by fire, storm, shipwreck, or other casualty or theft (attach statement)		
19. Bad debts (from Schedule H if reserve method is used)		10,500.00
20. Repairs		
21. Depreciation (Schedule I)		3,589.57
22. Amortization (attach schedule)		
23. Depletion of mines, oil and gas wells, timber, etc. (attach schedule)		
24. Other deductions authorized by law (explain in Schedule J)		12,910.65
25. Total deductions (lines 13 through 24)		41,518.96
26. Ordinary income (or loss) (line 12 less line 25)		4,995.42

ADDITIONAL INFORMATION

F. Is any member of the partnership related by blood or marriage to any other member?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
G. Is any member of the partnership a trust for the benefit of any person related by blood or marriage to any other member?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
H. Did the partnership, during the taxable year, have any contracts or subcontracts subject to the Renegotiation Act of 1951?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," see General Instruction P and enter appropriate amount here. \$.....	
I. Did you claim a deduction for expenses connected with: (If answer to any question is "YES," check applicable boxes within that question.)	
1. A hunting lodge <input type="checkbox"/> , working ranch or farm <input type="checkbox"/> , fishing camp <input type="checkbox"/> , resort property <input type="checkbox"/> , pleasure boat or yacht <input type="checkbox"/> , or other similar facility <input type="checkbox"/> ? (Other than where the operation of the facility was the partnership's principal business.)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
2. Vacations for partners or members of their families or employees or members of their families? (Other than vacation pay reported on Form W-2.)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
3. The leasing, renting, or ownership of a hotel room or suite <input type="checkbox"/> , apartment <input type="checkbox"/> , or other dwelling <input type="checkbox"/> , which was used by partners, customers, employees, or members of their families? (Other than use by partners or employees while in business travel status.)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
The attendance of members of partners' families or your employees' families at conventions or business meetings?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

I declare under penalties of perjury that I have examined this return (including accompanying schedules and statements) and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Sign here
(Signature of partner or member)

Sign here
(Signature of preparer other than partner or member)

HARRY PALERMO
PUBLIC ACCOUNTANT
843 HIAWATHA BLVD W. SYRACUSE, N. Y.

3/26/63

(Date)

**JOINT EXHIBIT 11-K - Form 1065, Partnership
Return 1962.**

Schedule A.—COST OF GOODS SOLD		
1. Opening inventory*		See Schedule
2. Purchases		
Less: Cost of items withdrawn for personal use		
3. Cost of labor, supplies, etc.		
4. Total of lines 1, 2, and 3		
5. Less: Closing inventory		
6. Cost of goods sold. Enter here and on line 2, page 1		

*If different from last year's closing inventory, attach explanation.

1. Was inventory valued at cost ☒; lower of cost or market ☐; LIFO ☐; other ☐? If "other," attach explanation.

2. Have write-downs been made to inventory? Yes ☐ No ☐. If "Yes," were the write-downs computed on the basis of:

(a) ☐ Percentage reductions from parts of the inventory

(b) ☐ Percentage reductions from the total inventory

(c) ☐ Valuation of individual items.

If "a" or "b" is checked, enter the percentage of write-downs _____%. For "a," "b" or "c" enter the dollar amount of write-downs \$_____ (if not available, estimate and indicate that the figure is an estimate.)

3. Was the inventory verified by physical count during the year? Yes ☐ No ☐. If "No," attach explanation of how the closing inventory was determined.

4. Was there any substantial change in the manner of determining quantities, costs or valuations between the opening and closing inventories? Yes ☐ No ☐. If "Yes," attach explanation.

NOTE: If a direct answer cannot be given to a question, attach explanation.

Note: Any items specially allocated to the partners should be included in the appropriate column of Schedule K, instead of the lines indicated by Schedules B through J. (See General Instruction O)

Schedule B.—INCOME FROM RENTS

1. Kind and location of property	2. Amount of rent	3. Depreciation (explain in Schedule I)	4. Repairs (explain in Schedule B-1)	5. Other expenses (explain in Schedule B-1)
843 Hiawatha Blvd. West	9,960.00			
Patacheck Farms	350.00			
1. Totals	10,310.00			
2. Net income (or loss) (column 2 less sum of columns 3, 4, and 5). (Enter on line 7, page 1)				10,310.00

Schedule B-1.—EXPLANATION OF COLUMNS 4 AND 5 OF SCHEDULE B

Column	Explanation	Amount	Column	Explanation	Amount

Schedule C.—EXPLANATION OF INTEREST AND TAXES (Lines 16 and 17, Page 1)

Explanation	Amount	Explanation	Amount
Mortgage Interest	3,912.10		

Schedule D.—ATTACH SCHEDULE D (Form 1065) TO REPORT SALES OR EXCHANGES OF PROPERTY

Schedule H.—BAD DEBTS. (See Instruction 19)

1. Taxable year	2. Note and accounts receivable outstanding at end of year	3. Sales on account	4. Gross amount added to reserve	5. Amount charged against reserve	6. Reserve for bad debts at end of year
1959...	Under Section 166F of the code. The partnership was guarantee of a \$20,000 account. It was settled for the \$10,500.00 declared as a bad debt.				
1960...					
1961...					
1962...					

NOTE.—Securities which are capital assets and which became worthless within the taxable year should be reported in separate Schedule D, Form 1065.

JOINT EXHIBIT 11-K -- Form 1065, Partnership
Return 1962.

Form 1065-1962

Schedule L--DEPRECIATION. (See Instruction 21, page 3)

Page 3

This schedule is designed for taxpayers using the new guidelines and administrative procedures determined in Revenue Procedure 62-21 as well as for those taxpayers who wish to continue using previously authorized procedures. Where double headings appear use the first heading for the new procedure and the second heading for the older procedure. Reduce the basis of property which qualifies for the investment credit by 7 percent of the qualified investment. (3 percent for public utilities).

[illegible]

Schedule J.—OTHER DEDUCTIONS. (See Instruction 24)

[illegible]

Schedule K.—PARTNERS' SHARES OF INCOME, CREDITS, AND DEDUCTIONS

1. State name and address of each partner. (Designate nonresident aliens, if any.) Where return of partner or member is filed in another internal revenue district, specify district	2. Social Security number	3. Percentage of time devoted to business	4. Ordinary income (or loss) (line 26, page 1)	5. Additional first-year depreciation
(a) Peter L. Cappuccilli 105 Norma Drive, Syracuse 4, New York	104-12-2226	part	1,665.14	
(b) Rocco M. Cappuccilli 120 Norma Drive, Syracuse 4, New York	133-20-1345	part	1,665.14	
(c) Gerald F. Paduano 201 Marion Drive, Syracuse 4, New York	268-12-2730	part	1,665.14	
(d)				
(e)				
Totals			4,995.42	

Continuation of Schedule K

6. Payments to partners—salaries and interest (line 4, page 1)	7. Qualifying dividends (attach itemized list)	8. Net short-term gain (or loss) from sale or exchange of capital assets (from line 3, Schedule D)	9. Net long-term gain (or loss) from sale or exchange of capital assets (from line 7, Schedule D)	10. Net gain (or loss) under section 1231 (from line 10, Schedule D)	11. Net earnings from self-employment (from line 10, Schedule N)	12. Expense account allowance (see instructions)
(a)
(b)
(c)
(d)
(e)
Total

NOTE.—See the instructions for other items required to be reported separately including property subject to investment credit.

**JOINT EXHIBIT 11-K - Form 1065, Partnership
Return 1962.**

Form 1065-1962

Schedule L--BALANCE SHEETS

Page 4

ASSETS	Beginning of taxable year		End of taxable year	
	Amount	Total	Amount	Total
1. Cash		4,957.36		3,765.56
2. Notes and accounts receivable		285,010.20		141,127.17
(a) Less: Reserve for bad debts				
3. Inventories				
4. Investments in Government obligations				
5. Other current assets (attach schedule)				
6. Other investments (attach schedule)				
7. Buildings and other fixed depreciable assets	117,141.74		86,128.46	
(a) Less: Accumulated amortization and depreciation	32,434.13	84,707.61	14,514.01	71,614.45
8. Depletable assets				
(a) Less: Accumulated depletion				
9. Land (net of any amortization)		225,279.00		35,212.00
10. Intangible assets (amortizable only)				
(a) Less: Accumulated amortization				
11. Other assets (attach schedule)				1,201,993.09
12. Total assets		599,954.17		1,453,714.37
LIABILITIES AND CAPITAL				
13. Accounts payable		6,308.16		5,572.29
14. Mortgages, notes, and bonds payable in less than 1 year		21,550.00		74,720.00
15. Other current liabilities (attach schedule)		998.34		
16. Mortgages, notes, and bonds payable in 1 year or more		244,910.00		24,500.00
17. Other liabilities (attach schedule)				
18. Partners' capital accounts		326,187.67		1,348,922.08
19. Total liabilities and capital		599,954.17		1,453,714.37

Schedule M--RECONCILIATION OF PARTNERS' CAPITAL ACCOUNTS

	1. Capital account at beginning of year	2. Capital contributed during year	3. Income not included in column 4 plus non-taxable income	4. Ordinary income (or loss) from line 26, page 1	5. Losses not included in column 4, plus unallowable deductions	6. Withdrawals and distributions	7. Capital account at end of year
(a) ...	104,400.26		345,074.74	1,665.14		5,497.31	445,642.83
(b) ...	108,360.18		345,074.73	1,665.14		5,789.38	449,310.67
(c) ...	113,427.23		345,074.73	1,665.14		6,198.52	453,968.58
(d) ...							
(e) ...							
Totals	326,187.67		1035,224.20	4,995.42		17,485.21	1348,922.08

Schedule N--COMPUTATION OF NET EARNINGS FROM SELF-EMPLOYMENT. (See instruction for Schedule N)

1. Ordinary income increased by casualty losses (line 26 plus line 18, page 1). Do not include income received for the performance of services as a doctor of medicine	4,995.42
2. Add: Payments to partners--salaries and interest (line 14, page 1)	
3. Net loss from sale or exchange of property other than capital assets (line 10, page 1)	
4. Total	4,995.42
5. Less: Portion of line 4, page 1, which does not constitute net earnings from self-employment	
6. Nonqualifying dividends (from line 5, page 1)	
7. Interest (see instructions)	
8. Net rentals from real estate	
9. Net gain from sale or exchange of property other than capital assets (line 10, page 1)	14,690.51
10. Net earnings from self-employment. (Enter in column 11, Schedule K)	-0-

U.S. Treasury Department—Internal Revenue Service
GAINS AND LOSSES FROM SALES OR EXCHANGES OF PROPERTY
 Attach this schedule to your U.S. Partnership Return of Income, Form 1065

1962

For Calendar Year 1962, or other taxable year beginning _____, 1962, and ending _____, 19____

Name and Address of partnership

Cappuccilli, Cappuccilli & Paduano 843 Miawatha Blvd., West Syracuse, N. Y.

CAPITAL ASSETS

Short-Term Capital Gains and Losses—Assets Held Not More Than 6 Months

[illegible]

Long-Term Capital Gains and Losses—Assets Held More Than 6 Months

[illegible]

SALE OR EXCHANGE OF PROPERTY UNDER SECTION 1231 (See Instruction 10 on other side)

[illegible]

SALE OR EXCHANGE OF OTHER PROPERTY (See Instructions 11 and 12 on other side)

11. Bowling Alley	1952	7/62	3477.50	28034.69	29538.23	(6026.29)
Leader Farm	1-1-56	8-1-58	50000.00	397.29	6433.37	*8624.60
Henderson Farm	4-60	2-61	216000.00	- 0 -	125460.00	*8800.00
Seneca Knolls Land	1961 & 62	1962	1,353600.00	- 0 -	315,083.00	*3292.80
12. Enter your share of such gain (or loss) from other partnerships and from fiduciaries.						
13. Net gain (or loss) from lines 11 and 12. Enter here and on line 10, page 1 of Form 1065.						14690.51

*See Attached Schedule

ADDRESS 843 Haverthia Blvd. West, Syracuse 3, New York

EXPLANATION OF OTHER DEDUCTIONS

ITEM	DESCRIPTION	AMOUNT
	Cash On Hand	
	Paid Cash	3,000.00
	Equip Repair	225.19
	Equip Rental	3,421.27
	Supplies	125.63
	Total	6,872.09
	Taxes	
	Real Estate	4,517.12
	Payroll Tax	166.83
	Total	4,683.95

CAPPUCCILLI, CAPPUCCILLI, PADUANO
SCHEDULE OF CONTRACT SALE OF PROPERTY 1962

	LEADER FARM	HENDERSON FARM	SENECA KNOLLS LAND
COST	\$ 6,433.37	\$125,460.00	315,083.00
LESS DEPRECIATION	397.29	- 0 -	- 0 -
BASES	<u>6,036.08</u>	<u>125,460.00</u>	<u>315,083.00</u>
SALE ON CONTRACT BASIS	50,000.00	216,500.00	1,353,600.00
BASES	<u>6,036.08</u>	<u>125,460.00</u>	<u>315,083.00</u>
GAIN	43,963.92	91,040.00	1,038,517.00
CASH	43,963.92	91,040.00	1,038,517.00
CONTRACT PRICE	<u>50,000.00</u>	<u>114,390.00</u>	<u>1,078,430.00</u>
PERCENTAGE	88%	80%	96%
RECEIVED-1958	6,000.00		
DECLARED-1958	5,280.00		
RECEIVED-1959	22,000.00		
DECLARED-1959	19,360.00		
RECEIVED 1960	- 0 -		
RECEIVED 1961	12,000.00	33,390.00	
DECLARED 1961	10,560.00	26,712.00	
RECEIVED 1962	9,800.00	11,000.00	3430.00
DECLARED 1962	<u>8,624.00</u>	<u>8,800.00</u>	<u>3292.80</u>
TOTAL RECEIVED	49,800.00		
TOTAL DECLARED	43,824.00		

JOINT EXHIBIT 39-AM - Purchases and Sales of Farms to Stonehedge.

PURCHASES BY PARTNERSHIP					SALES TO STONEHEDGE	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Farm	Owner	Option	Total Price	Date of Purchase	Date of Sale	Selling Price
Henderson	Easter	12/07/59	\$125,460	3/08/60	2/20/61	\$ 216,500
Patterson	Patterson	9/01/60	22,400	11/24/61)	1/10/62	
Commene	Commene	11/19/58	71,830	10/20/61)	1/10/62	
Walter	Walter	2/07/58	64,065	2/22/61)	1/10/62	
Green	Green	3/15/60	34,788	10/26/61)	1/10/62	1,353,600
Higgins	Hunt	10/13/58	127,000	1/03/62)	1/10/62	

Seneca Knolls
Property


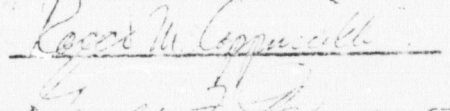
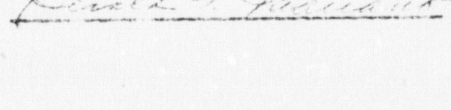
EXHIBIT 45 - Mortgage Settlement Statement.

MORTGAGE SETTLEMENT STATEMENT

PROPERTY: FT FL 14 and 15 Van Buren
 MORTGAGOR: STONEHEDGE DEVELOPMENT CORPORATION
 MORTGAGEES: PETER L. CAPPUCILLI
 ROCCO M. CAPPUCILLI
 GERALD F. FADUANO

Due on mortgages	\$1,122,850.00
To be paid to mortgagees:	
Sale to PRG Enterprises, Inc.	\$129,884.00
Sale to The Village Green of Van Buren, Inc.	<u>93,872.00</u>
	<u>223,756.00</u>
Balance due Mortgagees	\$ 899,094.00

Conveyance of remaining property covered by mortgages is accepted by mortgagees in full satisfaction of the balance due on the mortgages (\$899,094.00) this 14th day of March 1972.


 Peter L. Cappuccilli

 Rocco M. Cappuccilli

 Gerald F. Faduan

Approved:

STONEHEDGE DEVELOPMENT CORPORATION

By 
 Pres.

23-72 et al
 39-AM

EXHIBIT 46 - Deed.

U. S. Internal
Revenue Stamp
AffixedFORM 360 2 N. Y. DEED - QUIT CLAIM (FROM A CORPORATION)
(Laws of 1917, Chap. 481, Statutory Form 113)

500-2495 PAGE 834

TUTTLE & BLANK - REGISTERED U. S. PAT. OFFICE
Tuttle Law Print Publishers Rutland Vt.

989.45

This Indenture,March
BetweenMade the
Nineteen Hundred and Seventy-Two

STONEHEDGE DEVELOPMENT CORPORATION

day of

VAN BUREN

a corporation organized under the laws of the State of New York having its principal office at 605 West Genesee Street, Syracuse, New York 13204,

party of the first part, and

PETER L. CAPPUCILLI of 105 Norma Road, Syracuse, N. Y. 13219,
ROCCO M. CAPPUCILLI of 109 Rockwood Road, Syracuse, N. Y. 13219,
and GERALD F. PADUANO of 201 Marian Drive, Syracuse, N. Y. 13219,

parties of the second part.

Witnesseth that the party of the first part, in consideration of

-----One and No/100-----Dollar (\$1.00)
lawful money of the United States, and other good and valuable consideration
paid by the parties of the second part, does hereby remise, release and quitclaim
unto the parties of the second part, their heirs and assigns forever, all

THOSE TRACTS OR PARCELS OF LAND, situate in the Town of Van
Buren, County of Onondaga and State of New York, particularly
described in Schedule "A" annexed hereto which is made part hereof.

This conveyance is made in full satisfaction of all mortgages
held by grantees on premises described herein.

ONONDAGA COUNTY
0 3 5 1 3 6
REAL ESTATE STATE OF
TRANSFER TAX NEW YORK
Dept. of
Treas. FEB 15 '73 989.45
& Finance 77/ PG. 145

Hand to Hand
2000
150
Hand to Hand
2000
200
Hand to Hand
2000
200
Hand to Hand
2000
200

EXHIBIT 46 - Deed.

of the first part in and to said premises.

To have and to hold the premises herein granted unto the parties of the second part, their heirs and assigns forever.

In Witness Whereof, the party of the first part has caused its corporate seal to be hereunto affixed, and these presents to be signed by its duly authorized officer this day of March Nineteen Hundred and Seventy-Two.

STONEHEDGE DEVELOPMENT CORPORATION

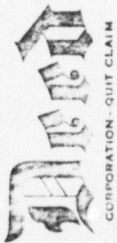
By Peter L. Cappuccilli
Peter L. Cappuccilli, President

State of New York On this day of March
County of ONONDAGA ss. Nineteen Hundred and Seventy-Two
before me personally came

PETER L. CAPPUCCILLI

to me personally known, who, being by me duly sworn, did depose and say that he resides in 105 Norma Road, Syracuse, New York, that he is the President of Stonehedge Development Corporation the corporation described in, and which executed, the within instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

James M. Lewis
Notary Public



CORPORATION - QUIT CLAIM

STONEHEDGE DEVELOPMENT CORPORATION

TO

PETER L. CAPPUCCILLI,
ROCCO M. CAPPUCCILLI
and
GERALD F. PADUANO

1972

March

Filed

Return to

P. L. Cappuccilli,
605 W Genesee St
Syracuse, N.Y. 13201

RECORD AND RETURN TO: 10, 100, 1000
MORTGAGE ABSTRACT & TITLE CORP.
230 EAST ONONDAGA STREET
SYRACUSE, NEW YORK 13202

25

EXHIBIT 47 - Certified Copy of Resolution and Consent.

CERTIFIED COPY OF RESOLUTION AND CONSENT

We, Peter L. Cappuccilli, being the President, and Rocco M. Cappuccilli, being the Secretary of Stonehedge Development Corporation, a corporation organized under the laws of the State of New York, having its principal office at 605 West Genesee Street, Syracuse, New York, DO HEREBY CERTIFY that:

A special joint meeting of the Board of Directors and the Shareholders of Stonehedge Development Corporation was held on the date, time and place set forth in the written Waiver of Notice signed by the Directors and Shareholders, fixing such time and place, and prefixed to the minutes of this meeting.

The President called the meeting to order and announced the purpose of the meeting. The following Directors, being all of the Directors of the Corporation, were present:

Peter L. Cappuccilli

Rocco M. Cappuccilli

The following Shareholders, being the holders of all of the outstanding shares of Stonehedge Development Corporation, were present:

Peter L. Cappuccilli

Rocco M. Cappuccilli

2. After due discussion and deliberation thereon, the following resolution, upon motion duly made and seconded, was unanimously adopted by the Board of Directors and Shareholders:

WHEREAS, Stonehedge Development Corporation purchased lands in the Town of Van Buren from Peter L. Cappuccilli, Rocco M. Cappuccilli and Gerald F. Paduano in January, 1962, and as part consideration therefor, executed and delivered its purchase money mortgages to them; and

WHEREAS, there is a balance due on said mortgages by Stonehedge Development Corporation in the sum of \$1,122,850.00; and

EXHIBIT 47 -- Certified Copy of Resolution and Consent.

WHEREAS, Stonehedge Development Corporation is and has been in default on said mortgages and the holders have demanded payment thereof in full; and

WHEREAS, Stonehedge Development Corporation is unable to pay said mortgages in full and the holders are about to institute proceedings to foreclose the same; and

WHEREAS, Stonehedge Development Corporation has sold portions of the land covered by said mortgages and has offered to pay to the holders of said mortgages the sum of \$223,756.00 on account of the balance due upon condition that the portions of the land sold be released from the liens of said mortgages; and

WHEREAS, upon the payment of said sum of \$223,756.00 there will remain a balance due on said mortgages in the sum of \$899,094.00; and

WHEREAS, Stonehedge Development Corporation has offered to convey the remaining lands covered by said mortgages to Peter L. Cappuccilli, Rocco M. Cappuccilli and Gerald F. Paduano, the holders of said mortgages in lieu of foreclosure and full satisfaction of said mortgages and the balance of \$899,094.00 due thereon; and

WHEREAS, the holders of said mortgages have agreed to release from the lien of said mortgages the portions of the mortgaged premises sold by Stonehedge Development Corporation upon the payment of \$233,756.00 and have agreed to accept a conveyance of the remaining lands covered by said mortgages in lieu of foreclosure and full satisfaction of said mortgages of the principal balance of \$899,094.00 due thereon; and

NOW, THEREFORE, be it

RESOLVED that this corporation convey to Peter L. Cappuccilli, Rocco M. Cappuccilli and Gerald F. Paduano the remaining lands covered by and described in the mortgages held by them upon which

EXHIBIT 47 - Certified Copy of Resolution and Consent.

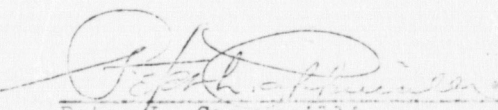
there is an unpaid balance of \$899,094.00 in lieu of foreclosure and in full satisfaction of said mortgages and the balance due thereon; and it is further

RESOLVED that the President is authorized and directed to make, execute, affix the corporate seal thereto and deliver said deed to Peter L. Cappuccilli, Rocco M. Cappuccilli and Gerald F. Paduano.

3. The foregoing is a true, accurate and complete copy of the minutes of a special meeting of the Board of Directors and Shareholders of the Corporation held on March 1, 1972 at its office at 605 West Genesee Street, Syracuse, New York.

4. As the holders of all the outstanding shares of Stonehedge Development Corporation, the undersigned hereby approve, and ratify, and confirm the minutes of said meeting and all action taken thereat and hereby consent to the conveyance of said lands in lieu of foreclosure and in full satisfaction of said mortgages.

IN WITNESS WHEREOF, we have set our hands and seals this first day of March, 1972.


Peter L. Cappuccilli,
President and Shareholder

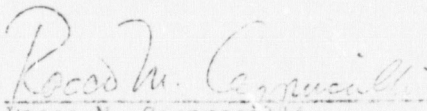

Rocco M. Cappuccilli,
Secretary and Shareholder

EXHIBIT 47 - Certified Copy of Resolution and Consent.

STATE OF NEW YORK)
COUNTY OF ONONDAGA) SS.:
CITY OF SYRACUSE)

On this 15th day of MARCH, 1972, before me personally came PETER L. CAPPUCCILLI, to me personally known, who, being by me duly sworn, did depose and say that he resides in the Town of Geddes, 105 Norma Road, Syracuse, New York, that he is the President of Stonehedge Development Corporation, the corporation described in, and which executed the within Instrument; that he knows the seal of said corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

James M. Cerio
JAMES M. CERIO
Notary Public in and for the State of New York
My Commission Expires 12/31/72

STATE OF NEW YORK)
COUNTY OF ONONDAGA) SS.:
CITY OF SYRACUSE)

On this 15th day of MARCH, 1972, before me personally came ROCCO M. CAPPUCCILLI, to me personally known, who, being by me duly sworn, did depose and say that he resides at 109 Rockwood Road, Syracuse, New York, that he is the Secretary of Stonehedge Development Corporation, the corporation described in, and which executed the within Instrument; that the seal affixed to said Instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

James M. Cerio
JAMES M. CERIO
Notary Public in and for the State of New York
My Commission Expires 12/31/72

EXHIBIT 47 - Certified Copy of Resolution and Consent.

WAIVER OF NOTICE OF SPECIAL MEETING OF DIRECTORS AND SHAREHOLDERS
OF
STONEHEDGE DEVELOPMENT CORPORATION

We, the undersigned, being all of the Directors and Shareholders of Stonehedge Development Corporation, a New York Corporation, hereby agree and consent that a special meeting of the Directors and Shareholders of the Corporation be held on the date and time and at the place designated hereunder for the purpose of taking action upon mortgages on property of the Corporation now in default and the giving of a deed in lieu of foreclosure thereof.


We do further agree and consent that any and all lawful business may be transacted at such meeting, or at any adjournment or adjournments thereof, as may be deemed advisable by the Directors and Shareholders present thereat. Any business transacted at such meeting, or any adjournment of adjournments thereof, shall be valid and legal and of the same force and effect as if such meeting or adjourned meeting were held after notice.

Place of Meeting: 605 West Genesee Street
Syracuse, New York

Date of Meeting: March 1, 1972

Time of Meeting: 1:00 p.m.

Dated: March 1, 1972


Peter L. Cappuccilli,
Director and Shareholder



Rocco H. Cappuccilli,
Director and Shareholder

EXHIBIT 48 - Closing Statement.

CLOSING STATEMENT

PROPERTY: PT FL 14 and 15 Van Buren, (1/3 Interest)
SELLER: GERALD F. PADUANO
BUYER: PETER L. CAPPUCCILLI
ROCCO M. CAPPUCCILLI

Price	\$299,698.00
Purchase Money Mortgage	<u>299,698.00</u>
Balance	None

Seller conveys his undivided one third interest in property to owners of other undivided two thirds interest in consideration of a purchase money mortgage covering the property conveyed for the full value of his interest (\$299,698.00). March 14th, 1972

Gerald F. Paduano
Seller

Peter L. Cappuccilli
Buyer

Rocco M. Cappuccilli
Buyer

EXHIBIT 49 - Bond and Mortgage.

Laws of 1932, Chap. 278 and Laws of 1945, Chap. 280, Statutory Form N)

DENNIS LAW FIRM CO., PUBLISHERS, BUFFALO, N.Y.

This Bond and Mortgage,

Made the 14th
seventy-two

day of March

Nineteen Hundred and

Between

PETER L. CAPPUCILLI of 105 Norma Road, Syracuse, New York
13219 and ROCCO M. CAPPUCILLI of 109 Rockwood Road, Syracuse,
New York 13215,

the mortgagors, and

GERALD F. PADUANO of 201 Marian Drive, Syracuse,
New York 13219

Witnesseth;
themselves

That the mortgagors, do hereby acknowledge
to be indebted to the mortgagee in the sum of

--two hundred ninety-nine thousand six hundred ninety-eight--Dollars,
and no/100
(\$ 299,698.00) lawful money of the United States, which the mortgagors

do hereby agree and bind themselves to pay to the mortgagee
with interest thereon at the rate of four per cent (4%) per annum
in the manner following:

The sum of \$299,698.00 on principal on March 10, 1982; interest
on principal balances at the rate of 4% per annum on the 10th day
of March, June, September and December in each year commencing the
10th day of June, 1972 and continuing until the entire principal and
interest have been paid in full; mortgagors shall have the privilege
of prepaying all or any amount on principal at any time after March 2,
1973;

Mortgagee covenants for himself, his heirs, representatives and
assigns that the holder of this mortgage will execute, acknowledge
and deliver an Instrument in writing releasing portions of the
premises described in this mortgage upon payment to the holder of a
sum on account of principal equivalent to \$1,800.00 for each acre
of land to be released;

to secure the payment of which the mortgagor hereby mortgage to the
mortgagee

ALL THOSE TRACTS OR PARCELS OF LAND, situate in the Town of
Van Buren, County of Onondaga and State of New York, particularly
described in Schedule "A" annexed hereto which is made part hereof.

EXHIBIT 49 - Bond and Mortgage.

SCHEDULE "A"
(Property Conveyed)PARCEL A

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Van Buren, County of Onondaga and State of New York, being part of Lot Fifteen (15) in said Town bounded and described as follows: BEGINNING at a point in the center line of State Fair Boulevard, New York State Route #48, which point is the intersection of the center line of said State Fair Boulevard with the southerly line of lands formerly owned by Andrew Henderson; thence North 83°-52'-45" West along the southerly line of said lands formerly owned by Andrew Henderson, a distance of 2602.61 feet to a point in the westerly line of Farm Lot No. 15, which is also the easterly line of lands formerly owned by Samuel Higgins; thence South 6°-28' West along the easterly line of said lands formerly owned by Samuel Higgins, a distance of 931.92 feet to a point therein, which point is also the northwest corner of lands formerly owned by Stuart Walter; thence South 83°-30'-20" East, along the northerly line of said lands formerly owned by Stuart Walter and the northerly line of lands owned by Edward O'Brien, a distance of 2530.16 feet to a point in the center line of O'Brien Road; thence North 31°-16'-50" East along the center line of O'Brien Road, a distance of 703.41 feet to a point in the center line of State Fair Boulevard; thence North 29°-13'-10" West along the center line of State Fair Boulevard, a distance of 382.14 feet to the place and point of beginning. Being the same premises conveyed to Peter L. Cappuccilli, Rocco M. Cappuccilli and Gerald F. Paduano by Vonnice M. Greene, individually and as Executrix, and Norman M. Greene by deeds recorded in the Onondaga County Clerk's Office on October 31, 1961 respectively in Book 2067 of Deeds at page 146 &c. and in Book 2067 of Deeds at page 150 &c.

PARCEL B

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Van Buren, County of Onondaga and State of New York, being parts of Farm Lots 15, 22 and 23 in said Town particularly described as follows: BEGINNING at the southwest corner of Farm Lot 15, which is also the southeast corner of premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife by deed dated July 7, 1959 and recorded in the Onondaga County Clerk's Office July 28, 1959 in Book 1960 of Deeds at page 518 &c.; thence North 6°-28' East along the west line of Farm Lot 15 and the east line of said premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife by said deed, a distance of 1488.93 feet to the southeast corner of premises formerly owned by Norman M. Greene and Vonnice M. Greene; thence South 83°-30'-20" East along said Greenes' south line, a distance of 1470 feet to the northwest corner of premises now or formerly owned by Edward O'Brien; thence South 5°-50'-40" West along said O'Brien's west line, a distance of 1485.04 feet to a point in the south line of said Farm Lot 15, which point is also the southwest corner of said O'Brien's premises; thence South 83°-39'-35" East along the south line of Farm Lot 15 and a south line of said O'Brien's premises, a distance of 674.57 feet to a point in the center line of O'Brien Road; thence South 6°-41'-20" West along the center line of O'Brien Road, a distance of 673.71 feet to an angle point therein; thence South 55°-15'-20" West along the center line of O'Brien Road, a distance of 397.16 feet to a point

EXCEPTING
conveyed to Pearl Gra.
deed recorded in the un
1952 in Book 1590 of Deed
portion of the premises con.

EXHIBIT 49 - Bond and Mortgage.

Commune by deed recorded in the Onondaga County Clerk's Office on September 26, 1958 in Book 1922 of Deeds at page 27, lying easterly of the center line of Van Buren Road.

Being the same premises conveyed to Peter L. Cappuccilli, Rocco M. Cappuccilli and Gerald F. Paduano by John Commune by deed recorded in the Onondaga County Clerk's Office on October 20, 1961 in Book 2065 of Deeds at page 561 &c.

PARCEL D

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Van Buren, County of Onondaga and State of New York, and being part of Farm Lot 14 in said Town bounded and described as follows: BEGINNING at a point in the southerly line of the highway known as Maple Road and leading from Baldwinsville to Syracuse, which is the intersection of the southerly line of said highway with the westerly line of premises conveyed to Wendell A. Powers by deed recorded in the Onondaga County Clerk's Office on August 10, 1956, in Book 1820 of Deeds at page 651; thence southerly along Powers' west line, a distance of 167.9 feet to Powers' southwest corner; thence southeasterly along Powers' southerly line a distance of 127.3 feet to Powers' southeasterly corner in the westerly line of premises described in a certain release of mortgage recorded in the Onondaga County Clerk's Office in Book 775 of Mortgages at page 70; thence southerly along the westerly line of said premises described in said release a distance of 463.1 feet to a point in the northerly line of premises described in said release; thence westerly along the northerly line of said premises described in said release a distance of 642.8 feet to the northwest corner of said parcel described in said release; thence southerly along the westerly line of said parcel described in said release a total distance of 2325.62 feet to the southwest corner of said parcel described in said release; thence easterly along the southerly line of said parcel described in said release a distance of 662.3 feet to a point in the east line of Farm Lot 14; thence southerly along the east line of Farm Lot 14 a distance of 2420.9 feet to the southeast corner of Farm Lot 14; thence westerly along the southerly line of Farm Lot 14 a distance of 1376.1 feet to an iron pin therein marking the southwest corner of premises of Party of the First Part; thence North 60°-03'-50" East along the westerly line of premises of Party of the First Part a distance of 5563 feet to a point in the center of a creek; thence easterly and northeasterly along the center of said creek and the southerly bounds of premises now or formerly owned by Angie Ellison, George S. Scott and wife, Martin Misiek and wife, Sidney D. Luce and wife, and Warren H. Crego and wife, to a point marking the southeast corner of premises conveyed to Warren H. Crego and wife by deed recorded in the Onondaga County Clerk's Office on November 19, 1951 in Book 1537 of Deeds at page 111 &c.; thence northerly along the easterly line of said premises so conveyed to said Crego by said deed to a point in the southerly line of said highway; thence South 60°-25'-20" East, a distance of 129 feet to a point in the southerly line of said highway which is also the northwest corner of premises conveyed to Howard W. Jeffcock and wife by deed recorded in the Onondaga County Clerk's Office on July 5, 1949 in Book 1392 of Deeds at page 602; thence South 48°-50'-20" West along Jeffcock's west line a distance of 105.5 feet to a point therein; thence continuing along said Jeffcock's west line South 23°-56'-10" West, a distance of 63 feet to a point therein; thence South 63°-33' East along Jeffcock's southerly line a distance of 53.4 feet to a point; thence South 48°-03'-50" West along Jeffcock's west line 111.52 feet to Jeffcock's southwest corner; thence South 59°-01'-10" East

EXHIBIT 49 - Bond and Mortgage.

along Jeffcock's southerly line a distance of 206 feet to Jeffcock's southeast corner; thence North $63^{\circ}-21'-50''$ East along Jeffcock's east line a distance of 69 feet to an angle point therein; thence continuing along Jeffcock's east line North $25^{\circ}-21'-50''$ East, a distance of 194.83 feet to a point in the southerly line of said highway; thence South $45^{\circ}-53'$ East along the southerly line of said highway a distance of 198.3 feet to the point of beginning therein; containing 138 acres of land, more or less.

EXCEPTING AND RESERVING therefrom, all that tract or parcel of land situate in the Town of Van Buren, County of Onondaga and State of New York and being part of Farm Lot 14 in said Town particularly described as follows: BEGINNING at a point in the easterly line of premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife by deed dated July 7, 1959 and recorded in the Onondaga County Clerk's Office July 28, 1959 in Book 1960 of Deeds at page 518 &c., North $5^{\circ}-32'-30''$ East, a distance of 85.6 feet from the southwesterly corner of premises conveyed to Andrew B. Henderson by Atherton S. Chase and wife; thence North $8^{\circ}-37'$ West, a distance of 284.35 feet to a point; thence North $81^{\circ}-23'$ East, a distance of 71.33 feet to a point in the easterly line of said premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife, which line is also the westerly line of premises conveyed to Andrew B. Henderson by Atherton S. Chase and wife; thence South $5^{\circ}-32'-30''$ West along said line last above mentioned, a distance of 293.25 feet to the point of beginning; containing 0.23 acres more or less.

ALSO EXCEPTING AND RESERVING therefrom, all that tract or parcel of land situate in the Town of Van Buren, County of Onondaga and State of New York and being part of Farm Lot 14 in said Town particularly described as follows: BEGINNING at a point in the easterly line of premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife by deed dated July 7, 1959 and recorded in the Onondaga County Clerk's Office July 28, 1959 in Book 1960 of Deeds at page 518 &c., North $5^{\circ}-32'-30''$ East, a distance of 607.6 feet and North $5^{\circ}-30'$ East, a distance of 21.76 feet from the southwesterly corner of premises conveyed to Andrew B. Henderson by Atherton S. Chase and wife; thence North $53^{\circ}-37'$ West, a distance of 417.10 feet to a point; thence North $42^{\circ}-02'$ West, a distance of 344.17 feet to a point; thence North $47^{\circ}-58'$ East, a distance of 902.69 feet to a point in the easterly line of said premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife, which line is also the westerly line of premises conveyed to Andrew B. Henderson by Atherton S. Chase and wife; thence South $5^{\circ}-03'$ West, along said line last above mentioned, a distance of 304.92 feet to a point therein; thence continuing South $5^{\circ}-30'$ West along said line last above mentioned, a distance of 807.34 feet to the point of beginning; containing 7.70 acres more or less.

Being the same premises conveyed to Peter L. Cappuccilli, Rocco M. Cappuccilli and Gerald F. Paduano by Elizabeth C. Hunt by Deed recorded in the Onondaga County Clerk's Office on December 28, 1962 in Book 2125 of Deeds at page 590 etc.

EXCEPTING AND RESERVING from the premises described as Parcels A, B, C and D, the following premises:

1. Premises conveyed to St. Mary's Church of Baldwinsville by deed recorded in the Onondaga County Clerk's Office in

EXHIBIT 49 - Bond and Mortgage.

Book 2034 of Deeds at page 206 etc.;

2. Premises conveyed to Stonehedge Development Corporation by deed recorded in the Onondaga County Clerk's Office in Book 2039 of Deeds at page 206 etc.;

3. Premises conveyed to Central School District No. 1 of the Towns of Lysander, Van Buren and Clay by deed recorded in the Onondaga County Clerk's Office in Book 2246 of Deeds at page 571 etc.;

4. Premises conveyed to PRG Enterprises, Inc. by Stonehedge Development Corporation by deed dated December 30, 1971;

5. Premises conveyed to The Village Green of Van Buren, Inc. by Stonehedge Development Corporation by deed dated December 30, 1971;

6. Premises, including lots and streets included in Seneca Knolls Sections "J", "K", "L" as amended and "M" as amended;

7. Premises, including streets in Phases 1 through 8, both inclusive, of The Village Green;

8. Premises conveyed to the Town of Van Buren by Stonehedge Development Corporation; and

9. Premises appropriated by the State of New York for highway purpose.

Subject to easements and mortgages of record.

ALSO EXCEPTING AND RESERVING therefrom all that tract or parcels of land, situate in the Town of Van Buren, County of Onondaga and State of New York, being part of Farm Lot No. 14 in said town, particularly described as follows: BEGINNING at a point which is the northwest corner of Lot No. 569 of Seneca Knolls Section "J" according to a map made by Jack W. Cottrell, L.S., filed in the Onondaga County Clerk's Office on April 27, 1961 as Map No. 4366; thence South 81°-23' West along the southerly line of lands conveyed to Central School District No. 1 of the Towns of Lysander, Van Buren and Clay by deed recorded in the Onondaga County Clerk's Office in Book 2246 of Deeds at page 571 etc., a distance of 400 feet to a point therein; thence South 8°-37' East, a distance of 135 feet to a point; thence South 81°-23' West, a distance of 60 feet to a point; thence North 8°-37' West, a distance of 135 feet to a point in the southerly line of said lands conveyed to Central School District No. 1 of the Towns of Lysander, Van Buren and Clay by said deed; thence South 81°-23' West along the southerly line of said lands conveyed to Central School District No. 1 of the Towns of Lysander, Van Buren and Clay by said deed, a distance of about 220 feet to a point in the westerly line of lands conveyed to Peter L. Cappuccilli and others by Elizabeth C. Hunt by deed recorded in the Onondaga County Clerk's Office in Book 2125 of Deeds at page 590 etc.; thence South 8°-37' East, a distance of 2449.7643 feet to a point; thence North 81°-23' East, a distance of 719.36 feet to a point; thence North 8°-37' West, a distance of 2119.7643 feet to a point in the southerly line of Lot No. 568 of Seneca Knolls Section "J"

EXHIBIT 49 - Bond and Mortgage.

according to a map made by Jack W. Cottrell, L.S., filed in the Onondaga County Clerk's Office on April 27, 1961 as Map No. 4366; thence South 81°-23' West along the southerly line of said Lot No. 568 of Seneca Knolls Section "J" according to said map, a distance of 25.91 feet to a point which is the southwest corner of said Lot No. 568; thence North 8°-37' West along the westerly line of said Lot No. 568 of Seneca Knolls Section "J" according to said map, and in prolongation thereof, a distance of 195 feet to a point in the southerly line of Lot No. 569 of Seneca Knolls Section "J" according to said map; thence South 81°-23' West along the southerly line of said Lot No. 569 of Seneca Knolls Section "J", a distance of 13.45 feet to a point which is the southwest corner of said Lot No. 569; thence North 8°-37' West along the westerly line of said Lot No. 569 of Seneca Knolls Section "J", a distance of 135 feet to a point which is the northwest corner of said Lot No. 569 and the point of beginning; containing 40.0320 acres of land.

EXHIBIT 49 - Bond and Mortgage.

Second. That the mortgagor **s** will keep the buildings on the premises insured against loss by fire for the benefit of the mortgagee; that they will assign and deliver the policies to the mortgagee; and that they will reimburse the mortgagee for any premiums paid for insurance made by the mortgagee on the mortgagor's default in so insuring the buildings or in so assigning and delivering the policies.

Third. That no building on the premises shall be removed or demolished without the consent of the mortgagee.

Fourth. That the whole of said principal sum and interest shall become due at the option of the mortgagee: after default in the payment of any installment of principal or of interest for **thirty** days; or after default in the payment of any tax, water rate or assessment for **thirty** days after notice and demand; or after default after notice and demand either in assigning and delivering the policies insuring the buildings against loss by fire or in reimbursing the mortgagee for premiums paid on such insurance, as hereinbefore provided; or after default upon request in furnishing a statement of the amount due on the bond and mortgage and whether any offsets or defenses exist against the mortgage debt, as hereinafter provided.

Fifth. That the holder of this bond and mortgage, in any action to foreclose the mortgage, shall be entitled to the appointment of a receiver.

Sixth. That the mortgagor **s** will pay all taxes, assessments or water rates, and in default thereof, the mortgagee may pay the same.

Seventh. That the mortgagor **s** within **ten** days upon request in person or within **ten** days upon request by mail will furnish a written statement duly acknowledged of the amount due on this bond and mortgage and whether any offsets or defenses exist against the mortgage debt.

Eighth. That notice and demand or request may be in writing and may be served in person or by mail.

Ninth. That the mortgagor **s** warrant the title to the premises.

TENTH. That, in Compliance with section 13 of the Lien Law, the mortgagors will receive the advances secured by this mortgage and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of improvement, and that the mortgagors will apply the same first to the payment of the cost of improvement before using any part of the total of the same for any other purpose.

In Witness Whereof.

signed and sealed by the mortgagors

In Presence of

this bond and mortgage has been duly

Peter L. Cappuccilli
Peter L. Cappuccilli

Rocco M. Cappuccilli
Rocco M. Cappuccilli

EXHIBIT 51 - Deed.

T 693 - Quitclaim Deed - Individual.
Statutory Form D. Photostat Recording.

200-2495 125 811

JULIUS ROSENBERG & LAW OFFICE
80 EXCHANGE PLACE AT BROADWAY, NEW YORK

THIS IS A LEGAL INSTRUMENT AND SHOULD BE EXECUTED UNDER SUPERVISION OF AN ATTORNEY

VAN BUREN

THIS INDENTURE, made the 14th day of March, 19 72
BETWEEN

GERALD F. PADUANO of 201 Marian Drive, Syracuse,
New York 13219,

part y of the first part, and

PETER L. CAPPUCCILLI of 105 Norma Road, Syracuse, New York 13219
and ROCCO M. CAPPUCCILLI of 109 Rockwood Road, Syracuse, New
York 13219,

part 1e of the second part,

WITNESSETH, that the part y of the first part, in consideration of

-----One and No/100----- Dollars,

lawful money of the United States, and other good and valuable consideration,
paid by the part 1es of the second part does hereby remise, release and quitclaim unto the part 1es of the second part,
their heirs and assigns forever,

ALL THOSE TRACTS OR PARCELS OF LAND, situate in the Town of
Van Buren, County of Onondaga and State of New York, particularly
described in Schedule "A" annexed hereto which is made part hereof.

U. S. TAX COURT
MARKED FOR IDENTIFICATION
ADMITTED IN EVIDENCE
OCT 1 1973
PETITIONER'S EXHIBIT 51
RESPONDENT'S EXHIBIT
DOCKET NO. 7168-72

REAL ESTATE STATE OF
TRANSFER TAX NEW YORK
036237
Dept. of Taxation FEB 15 '73 330.00
& Finance

7168-72
7169-72

Parcel A 2067
150
2495
034
Parcel B 2034
206
Parcel C 2065
561
Parcel D 2125
590

EXHIBIT 51 - Deed.

100-2495 PAGE 842

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises.
 TO HAVE AND TO HOLD the premises herein granted unto the parties of the second part,
 their heirs and assigns forever.

This deed is subject to the trust provisions of Section 13 of the Lien Law.

IN WITNESS WHEREOF, the party of the first part has hereunto set his hand and seal
 the day and year first above written.

In presence of

Gerald F. Paduano L.S.
 Gerald F. Paduano
 L.S.

STATE OF NEW YORK COUNTY OF ONONDAGA ss.:

On the 14th day of March, 1972 before me came

GERALD F. PADUANO

to me known and known to me to be the individual described in, and who executed, the foregoing instrument, and acknowledged to me that he executed the same.

James M. Lewis
 Notary Public
 Chgo. 6
 My Comm. Expires 3/30/74

GERALD F. PADUANO

to

PETER L. CAPPUCILLI
 and
 ROCCO M. CAPPUCILLI

Deed

QUITCLAIM - INDIVIDUAL

Dated, March 14, 1972

The land affected by the within instrument
 lies in

RECORD AND RETURN TO

RECORD AND RETURN TO: 10, 11, 12
 MONROE ABSTRACT & TITLE CORP.
 233 EAST ONONDAGA STREET
 SYRACUSE, NY 13202

130

Reserve this space for use of Recording Office.

DEED

500' 2495 PAGE 843

SCHEDULE "A"
(Property Conveyed)

PARCEL A

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Van Buren, County of Onondaga and State of New York, being part of Lot Fifteen (15) in said Town bounded and described as follows: BEGINNING at a point in the center line of State Fair Boulevard, New York State Route #48, which point is the intersection of the center line of said State Fair Boulevard with the southerly line of lands formerly owned by Andrew Henderson; thence North 83°-52'-45" West along the southerly line of said lands formerly owned by Andrew Henderson, a distance of 2602.61 feet to a point in the westerly line of Farm Lot No. 15, which is also the easterly line of lands formerly owned by Samuel Higgins; thence South 60°-28' West along the easterly line of said lands formerly owned by Samuel Higgins, a distance of 931.92 feet to a point therein, which point is also the northwest corner of lands formerly owned by Stuart Walter; thence South 83°-30'-20" East, along the northerly line of said lands formerly owned by Stuart Walter and the northerly line of lands owned by Edward O'Brien, a distance of 2530.16 feet to a point in the center line of O'Brien Road; thence North 31°-16'-50" East along the center line of O'Brien Road, a distance of 703.41 feet to a point in the center line of State Fair Boulevard; thence North 29°-13'-10" West along the center line of State Fair Boulevard, a distance of 382.14 feet to the place and point of beginning. Being the same premises conveyed to Peter L. Cappuccilli, Rocco M. Cappuccilli and Gerald F. Paduano by Vonnice M. Greene, individually and as Executrix, and Norman M. Greene by deeds recorded in the Onondaga County Clerk's Office on October 31, 1961 respectively in Book 2067 of Deeds at page 146 &c. and in Book 2067 of Deeds at page 150 &c.

PARCEL B

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Van Buren, County of Onondaga and State of New York, being parts of Farm Lots 15, 22 and 23 in said Town particularly described as follows: BEGINNING at the southwest corner of Farm Lot 15, which is also the southeast corner of premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife by deed dated July 7, 1959 and recorded in the Onondaga County Clerk's Office July 28, 1959 in Book 1960 of Deeds at page 518 &c.; thence North 60°-28' East along the west line of Farm Lot 15 and the east line of said premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife by said deed, a distance of 1488.93 feet to the southeast corner of premises formerly owned by Norman M. Greene and Vonnice M. Greene; thence South 83°-30'-20" East along said Greenes' south line, a distance of 1470 feet to the northwest corner of premises now or formerly owned by Edward O'Brien; thence South 50°-50'-40" West along said O'Brien's west line, a distance of 1485.04 feet to a point in the south line of said Farm Lot 15, which point is also the southwest corner of said O'Brien's premises; thence South 83°-39'-35" East along the south line of Farm Lot 15 and a south line of said O'Brien's premises, a distance of 674.57 feet to a point in the center line of O'Brien Road; thence South 60°-41'-20" West along the center line of O'Brien Road, a distance of 673.71 feet to an angle point therein; thence South 55°-15'-20" West along the center line of O'Brien Road, a distance of 397.16 feet to a point

BOOK 2295 PAGE 844

therein; thence South 27°-23'-20" East along the westerly line of Section "H", Seneca Knolls, as shown on a map thereof made by Jack W. Cottrell, L.S., and filed in the Onondaga County Clerk's Office on June 5, 1959 as Map No. 4163, a distance of 1095.70 feet to a point therein; thence North 83°-48'-30" West, a distance of 297 feet to a point; thence South 80°-33'-50" West, a distance of 281.32 feet to a point in the center line of O'Brien Road; thence North 82°-36'-35" West, a distance of 1926 feet to a point; thence North 3°-38'-30" East, a distance of 837 feet to a point; thence South 82°-35'-25" East, a distance of 757.66 feet to a point; thence North 5°-59'-20" East, a distance of 1066 feet to a point in the south line of Farm Lot 15; thence North 83°-39'-35" West along the south line of Farm Lot 15, a distance of 684 feet to the place and point of beginning; containing 128.13 acres more or less.

Being the same premises conveyed to Peter L. Cappuccilli, Rocco M. Cappuccilli, and Gerald F. Paduano by Elizabeth Walter individually and as Executrix, and Stuart F. Walter and others by deeds recorded in the Onondaga County Clerk's Office on February 24, 1961 respectively in Book 2034 of Deeds at page 200 &c. and in Book 2034 of Deeds at page 203 &c.

Excepting therefrom 10.03 acres thereof conveyed to St. Mary's Church of Baldwinsville, New York by Peter L. Cappuccilli, and others, by deed recorded in the Onondaga County Clerk's Office in Book 2034 of Deeds at page 206 &c.

PARCEL C

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Van Buren, County of Onondaga and State of New York, particularly described as follows: BEGINNING at a point in the south line of Lot Fourteen (14) twenty (20) chains and eighty-three (83) links west of the southeast corner of said Lot Fourteen (14), which point is the southwest corner of premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife by deed dated July 7, 1959 and recorded in the Onondaga County Clerk's Office on July 28, 1959 in Book 1960 of Deeds at page 518 etc.; thence North 83°-38'-20" West along the south line of said Lot Fourteen (14), a distance of 1131.1 feet to a point in the center line of Van Buren Road; thence along the center line of Van Buren Road, North 12°-24'-30" West, a distance of 613.87 feet to a point therein, North 9°-29'-45" West, a distance of 877.80 feet to a point therein, North 1°-21'-15" West, a distance of 1166.64 feet to a point therein; thence South 83°-51'-East, a distance of 501 feet to a point; thence North 6°-53' East, a distance of 1583 feet to a point; thence South 83°-55' East, a distance of 1188 feet to a point in the westerly line of premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife by the aforementioned deed recorded in the Onondaga County Clerk's Office in Book 1960 of Deeds at page 518 etc.; thence South 6°-03'-50" West along the westerly line of said premises conveyed to said Elizabeth C. Hunt by Samuel J. Higgins and wife by said deed, a distance of 4172.26 feet to the point of beginning; containing 131.5 acres of land, more or less.

EXCEPTING AND RESERVING therefrom about 0.9 acres of land conveyed to Pearl Graham by Michael Edward Commene and wife by deed recorded in the Onondaga County Clerk's Office on October 10, 1952 in Book 1590 of Deeds at page 475 etc., being all of that portion of the premises conveyed by Mary Fahey Commene to John

EXHIBIT 51 - Deed.

DEED BOOK 2495 PAGE 845

Commene by deed recorded in the Onondaga County Clerk's Office on September 26, 1958 in Book 1922 of Deeds at page 27, lying easterly of the center line of Van Buren Road.

Being the same premises conveyed to Peter L. Cappuccilli, Rocco M. Cappuccilli and Gerald F. Paduano by John Commene by deed recorded in the Onondaga County Clerk's Office on October 20, 1961 in Book 2065 of Deeds at page 561 &c.

PARCEL D

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Van Buren, County of Onondaga and State of New York, and being part of Farm Lot 14 in said Town bounded and described as follows: BEGINNING at a point in the southerly line of the highway known as Maple Road and leading from Baldwinsville to Syracuse, which is the intersection of the southerly line of said highway with the westerly line of premises conveyed to Wendell A. Powers by deed recorded in the Onondaga County Clerk's Office on August 10, 1956, in Book 1820 of Deeds at page 651; thence southerly along Powers' west line, a distance of 167.9 feet to Powers' southwest corner; thence southeasterly along Powers' southerly line a distance of 127.3 feet to Powers' southeasterly corner in the westerly line of premises described in a certain release of mortgage recorded in the Onondaga County Clerk's Office in Book 775 of Mortgages at page 70; thence southerly along the westerly line of said premises described in said release a distance of 463.1 feet to a point in the northerly line of premises described in said release; thence westerly along the northerly line of said premises described in said release a distance of 642.8 feet to the northwest corner of said parcel described in said release; thence southerly along the westerly line of said parcel described in said release a total distance of 2325.62 feet to the southwest corner of said parcel described in said release; thence easterly along the southerly line of said parcel described in said release a distance of 662.3 feet to a point in the east line of Farm Lot 14; thence southerly along the east line of Farm Lot 14 a distance of 2420.9 feet to the southeast corner of Farm Lot 14; thence westerly along the southerly line of Farm Lot 14 a distance of 1376.1 feet to an iron pin therein marking the southwest corner of premises of Party of the First Part; thence North 60°-03'-50" East along the westerly line of premises of Party of the First Part a distance of 5563 feet to a point in the center of a creek; thence easterly and northeasterly along the center of said creek and the southerly bounds of premises now or formerly owned by Angie Ellison, George S. Scott and wife, Martin Misiek and wife, Sidney D. Luce and wife, and Warren H. Crego and wife, to a point marking the southeast corner of premises conveyed to Warren H. Crego and wife by deed recorded in the Onondaga County Clerk's Office on November 19, 1951 in Book 1537 of Deeds at page 111 &c.; thence northerly along the easterly line of said premises so conveyed to said Crego by said deed to a point in the southerly line of said highway; thence South 60°-25'-20" East, a distance of 129 feet to a point in the southerly line of said highway which is also the northwest corner of premises conveyed to Howard W. Jeffcock and wife by deed recorded in the Onondaga County Clerk's Office on July 5, 1949 in Book 1392 of Deeds at page 602; thence South 48°-50'-20" West along Jeffcock's west line a distance of 105.5 feet to a point therein; thence continuing along said Jeffcock's west line South 23°-56'-10" West, a distance of 63 feet to a point therein; thence South 63°-33' East along Jeffcock's southerly line a distance of 53.4 feet to a point; thence South 48°-03'-50" West along Jeffcock's west line 111.52 feet to Jeffcock's southwest corner; thence South 59°-01'-10" East

500-2495 PAGE 846

along Jeffcock's southerly line a distance of 206 feet to Jeffcock's southeast corner; thence North $63^{\circ}-21'-50''$ East along Jeffcock's east line a distance of 69 feet to an angle point therein; thence continuing along Jeffcock's east line North $25^{\circ}-21'-50''$ East, a distance of 194.83 feet to a point in the southerly line of said highway; thence South $45^{\circ}-53'$ East along the southerly line of said highway a distance of 198.3 feet to the point of beginning therein; containing 138 acres of land, more or less.

EXCEPTING AND RESERVING therefrom, all that tract or parcel of land situate in the Town of Van Buren, County of Onondaga and State of New York and being part of Farm Lot 14 in said Town particularly described as follows: BEGINNING at a point in the easterly line of premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife by deed dated July 7, 1959 and recorded in the Onondaga County Clerk's Office July 28, 1959 in Book 1960 of Deeds at page 518 &c., North $5^{\circ}-32'-30''$ East, a distance of 85.6 feet from the southwesterly corner of premises conveyed to Andrew B. Henderson by Atherton S. Chase and wife; thence North $8^{\circ}-37'$ West, a distance of 284.35 feet to a point; thence North $81^{\circ}-23'$ East, a distance of 71.33 feet to a point in the easterly line of said premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife, which line is also the westerly line of premises conveyed to Andrew B. Henderson by Atherton S. Chase and wife; thence South $5^{\circ}-32'-30''$ West along said line last above mentioned, a distance of 293.25 feet to the point of beginning; containing 0.23 acres more or less.

ALSO EXCEPTING AND RESERVING therefrom, all that tract or parcel of land situate in the Town of Van Buren, County of Onondaga and State of New York and being part of Farm Lot 14 in said Town particularly described as follows: BEGINNING at a point in the easterly line of premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife by deed dated July 7, 1959 and recorded in the Onondaga County Clerk's Office July 28, 1959 in Book 1960 of Deeds at page 518 &c., North $5^{\circ}-32'-30''$ East, a distance of 607.6 feet and North $5^{\circ}-30'$ East, a distance of 21.76 feet from the southwesterly corner of premises conveyed to Andrew B. Henderson by Atherton S. Chase and wife; thence North $53^{\circ}-37'$ West, a distance of 417.10 feet to a point; thence North $42^{\circ}-02'$ West, a distance of 344.17 feet to a point; thence North $47^{\circ}-58'$ East, a distance of 902.69 feet to a point in the easterly line of said premises conveyed to Elizabeth C. Hunt by Samuel J. Higgins and wife, which line is also the westerly line of premises conveyed to Andrew B. Henderson by Atherton S. Chase and wife; thence South $5^{\circ}-03'$ West, along said line last above mentioned, a distance of 304.92 feet to a point therein; thence continuing South $5^{\circ}-30'$ West along said line last above mentioned, a distance of 807.34 feet to the point of beginning; containing 7.70 acres more or less.

Being the same premises conveyed to Peter L. Cappuccilli, Rocco M. Cappuccilli and Gerald F. Paduano by Elizabeth C. Hunt by Deed recorded in the Onondaga County Clerk's Office on December 28, 1962 in Book 2125 of Deeds at page 590 etc.

EXCEPTING AND RESERVING from the premises described as Parcels A, B, C and D, the following premises:

1. Premises conveyed to St. Mary's Church of Baldwinsville by deed recorded in the Onondaga County Clerk's Office in

BOOK 2495 PAGE 847

Book 2034 of Deeds at page 206 etc.;

2. Premises conveyed to Stonehedge Development Corporation by deed recorded in the Onondaga County Clerk's Office in Book 2039 of Deeds at page 206 etc.;

3. Premises conveyed to Central School District No. 1 of the Towns of Lysander, Van Buren and Clay by deed recorded in the Onondaga County Clerk's Office in Book 2246 of Deeds at page 571 etc.;

4. Premises conveyed to PRG Enterprises, Inc. by Stonehedge Development Corporation by deed dated December 30, 1971;

5. Premises conveyed to The Village Green of Van Buren, Inc. by Stonehedge Development Corporation by deed dated December 30, 1971;

6. Premises, including lots and streets included in Seneca Knolls Sections "J", "K", "L" as amended and "M" as amended;

7. Premises, including streets in Phases 1 through 8, both inclusive, of The Village Green;

8. Premises conveyed to the Town of Van Buren by Stonehedge Development Corporation; and

9. Premises appropriated by the State of New York for highway purposes.

Subject to easements and mortgages of record.

ONONDAGA COUNTY CLERK'S OFFICE

Deed, Recorded on the

15 day of Feb 1973 at

3:55 PM in Book 2495 Page 847

and examined.

Calvin D. Hamilton, Clerk

EXHIBIT AR - Letter, dated 8-11-71.

VICTOR CHINI

ATTORNEY-AT-LAW

811 STATE TOWER BUILDING

SYRACUSE, NEW YORK 13202

PHONE AREA CODE 315 422-1192

August 11, 1971

District Director of Internal Revenue
34 West Mohawk Street
Buffalo, New York 14202

Re: Cappuccilli, Cappuccilli & Paduano
605 West Genesee Street
Syracuse, New York 13201

Dear Sir:

Receipt is acknowledged of your letter dated May 11, 1971 (Form L-191B) (Rev. 6-69) and extension letter dated July 13, 1971 which granted an extension to August 16, 1971. Your report discloses proposed adjustments for the years 1967, 1968 and 1969.

Protest, in duplicate, is hereby made against the proposed adjustments and in support thereof, the following facts and contentions are submitted:

(A) Name and address of partnership

Cappuccilli, Cappuccilli & Paduano
605 West Genesee Street
Syracuse, New York 13201

(B) Date and symbols of your letters

May 11, 1971 - Form L-191B (Rev. 6-69); AU:R
July 13, 1971 - AU:R:PP (letter granting
extension to August 16, 1971)

(C) Income tax years involved

Calendar years 1967, 1968 and 1969

(D) Partnership requests a hearing with the Appellate Division of the Regional Commissioner's Office, Buffalo, New York.

(E) Findings to which partnership takes exception

Partnership objects to the findings that interest should be charged on certain loans and mortgages made to Stonehedge Development Corporation, Seneca Sewerage Corporation and Cappys Real Estate Inc. for the year 1967, 1968 and 1969.

RECEIVED
AUG 16 1971

RECEIVED
BUFFALO AUDIT DIV
AUG 16 1971
REVIEW STAFF

District Director of Internal Revenue
Page 2

August 11, 1971

(F) Statement of facts

At various times and in various amounts partnership made loans and/or mortgages to Stonehedge Development Corporation, Seneca Sewerage Corporation and Cappys Real Estate Inc. covering the years prior to 1967 and including 1967 through 1969. There was no agreement oral or otherwise providing that the partnership charge interest on these obligations.

(G) Argument

The District Director cites Regulations 1.482-2(a) as authority to impute interest in transactions involving related parties. In effect the District Director is creating income between the related parties, then applying Section 482.

In Huber Homes, 50 T.C. - No.60, houses had been transferred by the parent company (builder) to its subsidiary for renting. The Commissioner claimed that this transfer produced the allocable income, but the Court held that no income had been realized and thus, there was none to allocate under Sec.482. For it is essential to the application of that section that income be realized by a controlled group before it is distributed, apportioned or allocated.

In another case, the Corporation leased equipment to a commonly controlled corporation without charging rent. The Court held that the Commissioner was not permitted to tax the rental value of the equipment to the parent-lessor as income since the purpose of the law was to clearly reflect existing income. Tennessee-Arkansas Gravel Co. (CA-6) 40-2 URTC Para. 9512 112 F. 2d 508.

In DelHar Inc. vs U.S. 71-1 USTC Para. 9107, the Internal Revenue Service allocated management fee income from one related corporation to another and the Court held that since there was no contract in existence providing for such management fees, that there was no basis for allocating such fees.

EXHIBIT AR - Letter, dated 8-11-71.

District Director of Internal Revenue
Page 3

August 11, 1971

Also in Smith-Bridgman & Co., 16 TC 287, Dec. 18, 1947 (Acq.) the Court held that the Commissioner may not increase a wholly-owned subsidiary's income by allocating to it "interest" income attributable to a non-interest bearing loan to the parent.

In view of the above cited authorities, it is our opinion that an adjustment to income would be improper.

Respectfully submitted,

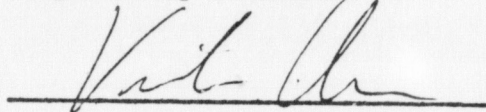
A handwritten signature in dark ink, appearing to be "V. L. Allen", is written over a horizontal line.

EXHIBIT AR - Letter, dated 8-11-71.

Under the penalties of perjury, I declare
that I am a partner of Cappuccilli, Cappuccilli
& Paduano and that the statement of facts presented
in this protest has been examined by me and to the
best of my knowledge and belief, is true, correct
and complete.

CAPPUCCHILLI, CAPPUCCHILLI & PADUANO

BY: 

EXHIBIT AR — Letter, dated 8-11-71.

I am the attorney for the partnership and the protest herein was prepared by me; the statements contained in this protest were submitted to me by the partnership and I do not know of my own knowledge that they are true.

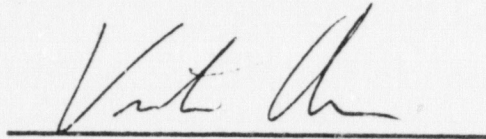
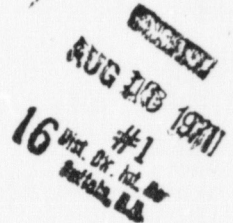


EXHIBIT AT - Letter, dated 7-21-71.

July 21, 1971

District Director of Internal Revenue
34 West Mohawk Street
Buffalo, New York 14202

Re: Stonehedge Development Corporation
605 West Genesee Street
Syracuse, New York 13201



Dear Sir:

Receipt is acknowledged of your letter dated May 11, 1971 (Form L-191B Rev. 6-69) and extension letter dated July 13, 1971 which granted an extension to August 16, 1971. Your report discloses proposed adjustments of interest expense deductions for the years 1967, 1968 and 1969.

Protest, in duplicate, is hereby made against the proposed adjustments and in support thereof, the following facts and contentions are submitted:

(A) Name and Address of Taxpayer

Stonehedge Development Corporation
605 West Genesee Street
Syracuse, New York 13201

RECEIVED
BUFFALO AUDIT DIVISION

(B) Date and symbols of your letters

May 11, 1971 - Form L-191B (Rev. 6-69); AU:R:PP
July 13, 1971 - AU:R:PP (letter granting extension to August 16, 1971)

AUG 16 1971

REVIEW STATE

(C) Income tax years involved

Calendar years 1967, 1968, and 1969 - no tax adjustment.

(D) Taxpayer requests a hearing with the Appellate Division of the Regional Commissioner's Office, Buffalo, New York.

(E) Findings to which taxpayer takes exception

Taxpayer objects to the finding that interest should be charged on its obligations to the partnership of Cappuccilli, Cappuccilli, and Paduano.

District Director of Internal Revenue
Page 2

July 21, 1971

(F) Statement of Facts

Taxpayer was obligated on a mortgage to Cappuccilli, Cappuccilli, and Paduano (a partnership) which resulted from certain sales of land to taxpayer. In addition, taxpayer received advances from the partnership for the tax years involved. See District Director's letter dated May 11, 1971, Form L-108, Cappuccilli, Cappuccilli, and Paduano, AU:R, with attached Form 1907, page 3, Schedule 1A for details of the mortgage and the advances from Stonehedge Development Corporation to the partnership.

The obligations of Stonehedge Development Corporation were non-interest bearing.

(G) Argument

The District Director cites Regulations 1.482-2(a) as authority to impute interest in transactions involving related parties. In effect the District Director is creating income between the related parties, then applying Section 482.

In Huber Homes, 50 T.C. - No.60, houses had been transferred by the parent company (builder) to its subsidiary for renting. The Commissioner claimed that this transfer produced the allocable income, but the Court held that no income had been realized and thus, there was none to allocate under Sec. 482. For it is essential to the application of that section that income be realized by a controlled group before it is distributed, apportioned or allocated.

In another case, the Corporation leased equipment to a commonly controlled corporation without charging rent. The Court held that the Commissioner was not permitted to tax the rental value of the equipment to the parent-lessor as income since the purpose of the law was to clearly reflect existing income. Tennessee-Arkansas Gravel Co. (CA-6) 40-2 URTC Para. 9512 112 F.2d 508.

In DelMar Inc. vs U.S. 71-1 USFC Para. 9107, the Internal Revenue Service allocated management fee income from one related corporation to another and the Court held that since there was no contract

EXHIBIT AT - Letter, dated 7-21-71.

District Director of Internal Revenue
Page 3

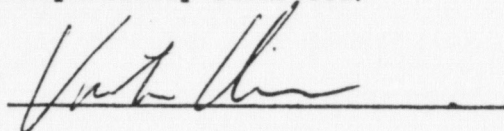
July 21, 1971

in existence providing for such management fees,
that there was no basis for allocating such fees.

Also in Smith-Bridgman & Co., 16 TC 287, Dec.
18,087 (Acq.) the Court held that the Commissioner
may not increase a wholly-owned subsidiary's
income by allocating to it "interest" income
attributable to a non-interest bearing loan to the
parent.

In view of the above cited authorities, it is our opinion
that an adjustment to income would be improper.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be "V. H. [unclear]", is written over a horizontal line.

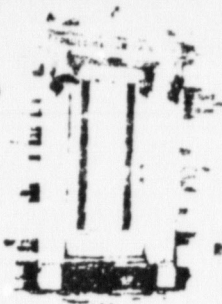
Under the penalties of perjury, I declare that I am the President of Stonehedge Development Corporation and that the statement of facts presented in this protest has been examined by me and to the best of my knowledge and belief, is true, correct and complete.

STONEHEDGE DEVELOPMENT CORPORATION

By: 

President

V. L. Kinn



SPAULDING LAW PRINTING CO.

ESTABLISHED
1881

313 MONTGOMERY STREET • SYRACUSE, N.Y. 13202 • PHONE AC 315 HA2-4805

RUSSELL D. HAY, owner

AFFIDAVIT OF SERVICE

RE: PADUANO and CAPPUCILLI v. COMMISSIONER OF INTERNAL REVENUE

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:
CITY OF SYRACUSE)

EVERETT J. REA , being duly sworn, deposes and says:

That he is associated with Spaulding Law Printing Company of Syracuse, New York, and is over twenty-one years of age.

That at the request of VICTOR CHINI, Attorney for Petitioners-Appellants,
(s)he personally served ^{one (1) copy} ~~three (3) copies~~ of the printed ~~[Record]~~ ~~[Brief]~~ ~~[Exhibit Book]~~ ~~[Appendix]~~ of the above-entitled case addressed to:

SCOTT P. CRAMPTON, ESQ.
Assistant Attorney General
Tax Division
U.S. Dept. of Justice
Washington, D.C. 20530

by depositing true copies of the same securely wrapped in a postpaid wrapper in a Post Office maintained by the United States Government in the City of Syracuse, New York on Sept. 17, 1975.

Everett J. Rea
.....

Everett J. Rea

Sworn to before me this 17th
day of Sept. , 1975.

Ruth S. Moloughney
Commissioner of Deeds

cc: Victor Chini, Esq.